



U.S. Citizenship and Immigration Services

STATEMENT

OF

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U.S. DEPARTMENT OF HOMELAND SECURITY

REGARDING A HEARING ON

IMMIGRATION REFORM AND THE TEMPORARY WORKER PROGRAM

BEFORE THE

HOUSE APPROPRIATIONS COMMITTEE

SUBCOMMITTEE ON HOMELAND SECURITY

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Good afternoon Chairman Price, Ranking Member Rogers and members of the Subcommittee. Thank you again for the opportunity to come before you to discuss the work of the United States Citizenship and Immigration Services (USCIS) in the context of immigration reform and a Temporary Worker Program (TWP).

As a vital contributor to the homeland security mission of the Department of Homeland Security (DHS), each day USCIS processes over thirty thousand applications for immigration benefits, conducts one hundred thirty-five thousand national security background checks on these applications, and captures eight thousand sets of fingerprints at its 130 Application Support Centers (ASCs). Each day, at the conclusion of our processes, USCIS welcomes over two thousand new citizens and over thirty-five hundred new permanent residents. We also welcome nearly 200 refugees each day to our shores. This is a snapshot of the functions which USCIS performs in order to process the over six million applications received each year by the agency. USCIS accomplishes these significant contributions to the Department's overall national security mission through the dedicated and tireless work of our USCIS employees and contractors. And I want to publicly acknowledge and thank them for their contribution.

Today I want to talk to you about the goals of comprehensive immigration reform and how USCIS can contribute to those goals. In addition, I want to share with you the progress USCIS has made and our plans to continue strengthening the agency's ability to respond to ever-changing national security and customer service needs, which has better positioned USCIS to successfully implement a TWP.

Ours is a nation of immigrants which welcomes those who wish to lawfully enter the United States and provides many lawful options for doing so. Yet we must also address the realities of the millions of immigrants who are already in the country illegally.

The President and his Administration are dedicated to comprehensive reform of America's immigration laws by increasing border security, while maintaining the Nation's tradition of welcoming immigrants who enter the country legally. In order for immigration reform to succeed, it must be based on five pillars: 1) gaining effective control of the border; 2) building a robust interior enforcement program; 3) implementing a TWP to provide a legal channel for employers to hire foreign workers to do jobs Americans are unwilling to do; 4) bringing illegal immigrants already in the country out of the shadows; and 5) helping new immigrants assimilate into American society.

These five pillars will allow DHS to deter and apprehend migrants attempting to enter the country illegally, decrease crime rates along the border, mitigate the economic incentives that draw illegal aliens into the United States, and substantially reduce the opportunities for fraud in our immigration system. The Administration's plan also will serve the needs of the economy: It will allow employers to hire legal foreign workers on a temporary basis when no American is willing to take the job, and bring undocumented workers out of the shadows without providing amnesty, and, finally, restore public confidence in the Federal Government's ability to administer and enforce immigration

laws. It is necessary for our nation's security that we undertake reform and that it be successful.

The history of immigration and immigration reform in the United States is both long and complicated. As head of one of the DHS agencies charged with administering our national immigration mission, I ask this Congress to keep in mind the hard lessons learned from past reform efforts and to avoid repeating their mistakes in crafting new reform legislation.

Secretary Chertoff and Secretary Gutierrez recently addressed the Senate Judiciary Committee regarding some of the principles that should guide a TWP. These thoughts are shaped by the collective experience of our agencies administering the system bequeathed to us by the Immigration Reform and Control Act of 1986 (IRCA). I would like to echo those points and provide some further specifics regarding the role and responsibilities of USCIS:

- First, we need to have clear and consistent application standards that will protect the applicant, guide those reviewing and granting each application, and defend against fraud. One significant challenge of implementing IRCA was the vagueness of its statutory eligibility provisions. This led to significant confusion for both applicant and adjudicator. The requirements for applicants must be simple and straightforward.

In addition, the information provided by the applicants to prove their identity must be verifiable. The standards must be high to give our adjudicators certainty and ensure the necessary security checks can move swiftly.

The more confusing or complicated the process is, the less likely it is that applicants will seek to enter the program, and the more likely it is that the system will be abused. We should therefore ensure that the adjudications process and necessary verification requirements are straight forward and balanced against the volume of fact-based adjudications that must be performed by USCIS and other agencies.

- Second, we should limit judicial review of application decisions to ensure that applications are treated fairly and objectively but do not become a source of never-ending litigation. As a result of IRCA, judicial review provisions have jammed the federal court system with a huge backlog of legalization cases. Some of this litigation continues even today, 20 years later. USCIS adjudicators must review a case and make their decisions in a uniform manner but they must also do so with confidence that the judicial review process will not unduly delay necessary enforcement actions. Excessive litigation will break any immigration system and it does not contribute to the goals of reform.

- Third, we should not give illegal aliens who have already broken the law greater access to our courts than those who have legitimately applied for a visa or green card from outside our country. There is no reason to grant special treatment to those who rejected our laws to get here. The United States immigration system provides many well-established opportunities for immigrants of many different nations, interests, and abilities to enter our country. We must continue to actively discourage and deter those seeking to use illegal means and methods to enter our country.
- Fourth, the DHS agencies, including USCIS, must have sufficient time, flexibility, and resources to successfully implement and manage a Temporary Worker Program. Activities that must be conducted prior to the launch of a Temporary Worker Program include critical planning, developing regulations, developing and implementing contract requirements, hiring and training workers, and building out necessary infrastructure. On an annual basis, the DHS immigration agencies currently oversee the monitoring, evaluation, and processing of millions of legal immigrants and nonimmigrants. As USCIS has made measurable progress toward improving customer service, eliminating the application backlog, and enhancing national security; it is in our nation's best interest to continue this progress by giving USCIS the necessary tools to successfully implement the new program.
- Fifth, we cannot give a blank check of "confidentiality" for information learned in the course of adjudicating applications for the program. Our USCIS adjudicators are trained to make decisions based upon all the facts presented by an applicant.

While I look forward to working with my DHS colleagues, the Administration and the Congress on the vital and overdue comprehensive reform legislation, I am also pleased to report to you on the significant steps USCIS has taken to enhance its performance during FY 2006 and 2007. These efforts have substantially enhanced our ability to help successfully administer a Temporary Worker Program and other obligations of the agency.

With the \$460 million in appropriated resources provided by the Congress over the past 5 years, USCIS was able to achieve the President's goal of a six-month or better processing time for nearly all immigration benefit applications. USCIS was able to accomplish this goal while maintaining the security and integrity of our immigration system.

In spring 2006 I created a new National Security and Records Verification Division which houses our Fraud Detection, Records, and Verification divisions. Thanks to the efforts of this division, each month we facilitate the apprehension by US Immigration and Customs Enforcement (ICE) and other law enforcement agencies of more than one hundred people. We have also established a Benefit Revocation Unit which allows us to formally revoke the immigration status of those who commit crimes

or otherwise threaten our national security. This division also houses the Employment Eligibility Verification (EEVP) Program, formerly known as Basic Pilot. EEVP is a voluntary program providing employers an electronic system to verify employment eligibility of all newly hired employees. EEVP now has over 15,000 employers participating in the program. We are continuing to strengthen the performance of EEVP by improving data quality and information sharing.

USCIS has made other service improvements over that time as well, including establishing online filing, establishing online case updates, allowing applicants to schedule appointments, supporting the ability of applicants to submit changes of address online, and introducing a broad range of fact sheets to help people understand various benefits, eligibility criteria and USCIS procedures.

FY 2008 President's Budget

Building upon the efforts I have described, the President's FY 2008 budget will allow USCIS to build a 21st Century Immigration Service. Our FY 2008 budget, which is 99% fee-funded, includes a total of \$2.57 billion, \$30 million in appropriated funds and \$2.54 billion in fees. This is an increase of \$583 million, or 29%, over FY 2007 levels and includes the resources necessary to efficiently and effectively administer our nation's immigration laws.

The President's Budget will also make the Systematic Alien Verification for Entitlements (SAVE) program a fully fee funded program at \$21.6 million. SAVE, partly financed in FY 2007 through appropriated funds, aids eligibility workers in more than 200 agencies that determine the immigration status of non-citizen applicants. The SAVE Program is an intergovernmental information-sharing initiative designed to aid organizations in determining an applicant's/recipient's immigration status, and thereby ensure that only entitled applicants/recipients receive Federal, state, or local public benefits. The Program is an information service for benefit-granting agencies. Finally, the President's Budget requests a total of \$30 million in discretionary funding to continue expanding the EEV Program.

As noted in the budget, we have proposed new fees with which we can deliver far more significant improvements. In his FY 2007 Budget request, the President called for USCIS to reform its fee structure - in line with Federal fee guidelines¹ - to ensure the recovery of operational costs. This followed a January 2004 Government Accountability Office (GAO) report² to the House and Senate Judiciary Committees that indicated that USCIS' fees were insufficient to fund our operations. As a result, the GAO recommended that USCIS "perform a comprehensive fee study to determine the costs to

¹ Office of Management and Budget (OMB) Circular No. A-25 ("User Charges") directs federal agencies to charge the "full cost" of providing special benefits to a recipient when calculating fees. "Full cost" is defined as "all direct and indirect costs to any part of the Federal Government of providing a good, resource or service."

² See GAO, Immigration Application Fees: Current Fees are Not Sufficient to Fund U.S. Citizenship and Immigration Services' Operations (GAO-04—309R, Jan. 5, 2004).

process new immigration applications.” Consistent with that direction, USCIS undertook a careful and comprehensive review to revise its application and petition fees to ensure it recovers its full business costs. The proposed rule, published in the Federal Register³ on February 1st, reflects that review.

The proposed fee structure will allow USCIS to strengthen the security and integrity of our immigration system, improve customer service, and modernize business operations for the 21st century. Specifically, the new fee structure will enable USCIS to:

- 1) Improve the integrity of our immigration system by increasing fraud prevention and detection efforts and expanding national security enhancements;
- 2) Reduce processing times for all immigration applications by an average of 20 percent by the end of FY 2009;
- 3) Address performance gaps identified by the Government Accountability Office, DHS Inspector General, and the USCIS Ombudsman;
- 4) Upgrade facilities and provide better training to ensure a skilled workforce; and
- 5) Automate USCIS business operations and modernize information technology (IT) infrastructure, reducing unacceptable paper-based processes.

While these initiatives are characterized as enhancements when compared to our current resources and operations, they are critical investments necessary to meet our mission requirements. They also strengthen the platform upon which additional requirements, including a TWP, will be built. In my recent testimony to the Subcommittee on Immigration, Citizenship, Refugees, Border Security and International Law, I provided significant detail about the fee increase and will summarize my comments for this Committee.

It is important to note that the fee rule is designed to close performance and security gaps that exist today and does not assume passage of legislation. The increase is necessary regardless of whether comprehensive immigration reform legislation is passed. The improvement to our nation’s immigration system resulting from the increased revenue generated by this rule will support increased security and fundamentally overhaul and automate USCIS business operations, all of which will greatly strengthen USCIS’ ability to perform its mission and put the agency in a better position to support future comprehensive legislative reforms.

I thank you again for the opportunity to come before you today to discuss the needs of USCIS within the context of immigration reform as well as the state of the agency. As a naturalized citizen, I know that United States is a nation of immigrants that has welcomed legal immigrants throughout its history, and it must continue to do so. No other nation in the world owes as much to the positive and lasting contribution that immigrants have made to its development, and no other nation recognizes and acknowledges this contribution as gratefully as we do. Comprehensive immigration

³Department of Homeland Security, U.S. Citizenship and Immigration Services, 8 CFR Part 103, Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule, Proposed Rule, 72 Fed. Reg. 4887 (Feb 1, 2007).

reform, including the temporary worker program, is critical to the continued success of our Nation. If we collectively heed the lessons of the past, and provide the tools necessary to build a successful temporary worker program, USCIS will be prepared and ready to respond to this important task.

I am pleased to respond to any questions you may have for me. Thank you.